

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KHA N.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. C24-5002 RSM

**ORDER AFFIRMING AND  
DISMISSING THE CASE**

Plaintiff seeks review of the denial of his application for Supplemental Security Income. Plaintiff contends the ALJ misinterpreted and misevaluated medical opinion evidence and erred in rejecting Plaintiff's symptom testimony. Dkt. 10. As discussed below, the Court **AFFIRMS** the Commissioner's final decision and **DISMISSES** the case with prejudice.

**BACKGROUND**

Plaintiff is 32 years old, has at least a high school education, and has no past relevant work. Admin. Record (AR) 34. In July 2020, Plaintiff applied for benefits, alleging disability as of July 29, 2020. AR 73, 89. Plaintiff's application was denied initially and on reconsideration. AR 86, 107. After the ALJ conducted a hearing on November 3, 2022 (AR 40–70), the ALJ issued a decision finding Plaintiff not disabled. AR 14–39. The ALJ determined Plaintiff is able to perform a full range of work, but limited him, in relevant part, to “no interaction with the

1 general public and only incidental interaction with supervisors and co-workers.” AR 22.

## 2 DISCUSSION

3 The Court may reverse the ALJ’s decision only if it is legally erroneous or not supported  
4 by substantial evidence of record. *Ford v. Saul*, 950 F.3d 1141, 1154 (9th Cir. 2020). The Court  
5 must examine the record but cannot reweigh the evidence or substitute its judgment for the  
6 ALJ’s. *Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002). When evidence is susceptible to  
7 more than one interpretation, the Court must uphold the ALJ’s interpretation if rational. *Ford*,  
8 950 F.3d at 1154. Also, the Court “may not reverse an ALJ’s decision on account of an error  
9 that is harmless.” *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012).

### 10 1. Medical Opinion Evidence

11 Plaintiff contends the ALJ misinterpreted the medical opinion of ARNP Chime and erred  
12 in rejecting the medical opinions of Dr. Ledesma, Dr. Ruddell, and Dr. Widlan. Dkt. 10 at 2–3,  
13 7–8.

14 Under the applicable rules, the ALJ must “articulate how [he] considered the medical  
15 opinions” and “how persuasive [he] find[s] all of the medical opinions” by considering  
16 their supportability, consistency, relationship with the claimant, specialization, and other factors.  
17 20 C.F.R. § 416.920c(c). The ALJ is specifically required to consider the two most important  
18 factors, supportability and consistency. 20 C.F.R. § 416.920c(a). The supportability factor  
19 requires the ALJ to consider the relevance of the objective medical evidence and  
20 the supporting explanations presented by the medical source to justify their opinion. 20 C.F.R. §  
21 416.920c(c)(1). The consistency factor involves consideration of how consistent a medical  
22 opinion is with the other record evidence. 20 C.F.R. § 416.920c(c)(2). Further, under the new  
23 regulations, “an ALJ cannot reject an examining or treating doctor’s opinion as unsupported or

1 inconsistent without providing an explanation supported by substantial evidence.” *Woods v.*  
2 *Kijakazi*, 32 F.4th 785, 791 (9th Cir. 2022).

3 **a. ARNP Chime**

4 Plaintiff does not challenge the ALJ’s evaluation of ARNP Chime’s opinion but avers the  
5 misinterpretation of the nurse’s findings led to an erroneous assessment that Plaintiff is able to  
6 interact consistently. *Id.* The basis for Plaintiff’s argument is the portion of ARNP Chime’s  
7 opinion pertaining to Plaintiff’s activities of daily living, which states that Plaintiff reported the  
8 following: “I wake up, take a shower something to eat something, and sit downstairs or in my  
9 room, usually on the internet in the afternoon, I go look for something else to eat, video games,  
10 eat dinner and try to go to bed.” AR 328. ARNP Chime then listed, in relevant part, the  
11 following activities: “Shopping – Independent” and “Transportation – Can use public transit  
12 independently.” *Id.* Plaintiff argues that despite ARNP Chime noting his ability to  
13 independently engage in these activities, there is not enough information in the report to show he  
14 actually engaged in these activities. Dkt. 10 at 3. Instead, Plaintiff asserts his inability to  
15 interact “varies.” *Id.* Therefore, according to Plaintiff, the ALJ erred in finding Plaintiff could  
16 interact consistently. *Id.*

17 Plaintiff’s argument is undercut by the fact that the ALJ did not assess Plaintiff could  
18 interact consistently. The ALJ determined Plaintiff is limited to “no interaction with the general  
19 public and only incidental interaction with supervisors and co-workers.” AR 22. Even if the  
20 Court were to accept Plaintiff’s reading of ARNP Chime’s report, Plaintiff has not shown the  
21 ALJ’s RFC assessment of incidental to no interaction is contradictory to the fact that, as Plaintiff  
22 himself said, he “is able to interact with others at times and at times he is not able to do.” *See*  
23 Dkt. 10 at 3.

1                   **b.       Dr. Ledesma**

2           Dr. Ledesma opined Plaintiff would be unable to interact with co-workers and the public  
3 and would have difficulty with accepting instructions from supervisors.<sup>1</sup> AR 306. The ALJ  
4 reasonably rejected this opinion because Plaintiff was able to interact with her throughout the  
5 evaluation. *See* AR 31. And though Dr. Ledesma observed Plaintiff had a difficulty establishing  
6 eye contact and rapport, Plaintiff was nonetheless noted as oriented to person, place and time,  
7 and he was able to answer the doctor’s questions “in an appropriate manner for the most part.”  
8 *See* AR 304.

9           The ALJ also rejected Dr. Ledesma’s opinion because it was “not consistent with the  
10 record as whole, which shows essentially unimpaired social functioning on evaluation with Ms.  
11 Chime.” AR 31–32. The ALJ’s interpretation of the record is not supported by substantial  
12 evidence, given ARNP Chime found Plaintiff “not able to interact with coworkers and  
13 supervisors and the public.” *See* AR 331. Further, the record, as a whole, does not necessarily  
14 show Plaintiff is “essentially unimpaired” with regards to social functioning, given the  
15 observations about Plaintiff’s lack of response to certain medical providers and the evaluations  
16 finding him limited in his ability to interact. *See, e.g.*, AR 361, 374. In rejecting Dr. Ledesma’s  
17 opinion for its inconsistency, the ALJ erred. However, because the ALJ’s supportability analysis  
18 was supported by substantial evidence, the ALJ’s improper evaluation based on the  
19 inconsistency factor is deemed harmless. *Woods*, 32 F. 4th at 793 (affirming the ALJ’s rejection  
20 of medical opinion based on an inconsistency finding alone).

21 \_\_\_\_\_  
22 <sup>1</sup> Dr. Ledesma also opined about Plaintiff’s cognitive and physical ability to perform tasks. AR 306. However,  
23 Plaintiff challenges only the ALJ’s evaluation of Dr. Ledesma’s opinion pertaining to his ability to interact,  
therefore the Court focuses only on this portion of the ALJ’s evaluation. *See Carmickle v. Commissioner, Social Sec.*  
*Admin.*, 533 F.3d 1155, 1161 n. 2 (9th Cir. 2008) (quoting *Paladin Assocs., Inc. v. Mont. Power Co.*, 328 F.3d 1145,  
1164 (9th Cir. 2003) (noting the Court will not consider matters that are not “specifically and distinctly” argued in  
the plaintiff’s opening brief)).

1                   **c.       Dr. Ruddell and Dr. Widlan**

2           Dr. Ruddell opined Plaintiff has moderate to marked limitations in basic work activities.  
3   AR 357. Dr. Widlan opined Plaintiff has “significant deficits in social reasoning,” and while “he  
4   can cognitively understand very simple instruction[,] he cannot persist for even simple tasks.”  
5   AR 372. In an evaluation of Plaintiff’s mental functioning, Dr. Widlan also found Plaintiff is not  
6   able to interact appropriately with the general public, accept instructions and respond  
7   appropriately to criticism from supervisors, and get along with coworkers or peers without  
8   distracting them or exhibiting behavioral extremes. AR 374. Dr. Widlan further found Plaintiff  
9   “will have noticeable difficulty more than 20 percent of the work day or work week” with asking  
10   simple questions or requesting assistance, and “will have noticeable difficulty [for] 11-20 percent  
11   of the work day or work week” with maintaining socially appropriate behavior and adhering to  
12   basic standards of neatness and cleanliness. *Id.*

13           The ALJ found the opinions of Dr. Ruddell and Dr. Widlan supported by the findings of  
14   the doctors’ respective evaluations but ultimately rejected them for their inconsistency—Dr.  
15   Ruddell’s with the “examination of nurse practitioner Chime” and Dr. Widlan’s with Plaintiff’s  
16   “reports, presentation, and performance on other evaluations.” AR 31, 33. The ALJ does not  
17   specify the “other evaluations” he compared Dr. Widlan’s opinion with, but goes on to state that  
18   “if [Plaintiff were] truly as impaired as Dr. Widlan found, [Plaintiff] would not have been  
19   capable of presenting as he did to nurse practitioner Chime.” *Id.*

20           As stated above, the ALJ’s interpretation of ARNP Chime’s opinion is not supported by  
21   substantial evidence, given ARNP Chime opined Plaintiff is “not able to interact with coworkers  
22   and supervisors and the public.” *See* AR 331. Thus, in rejecting the opinions of Dr. Ruddell and  
23   Dr. Widlan for their inconsistencies, the ALJ erred.

1        However, Plaintiff has failed to show that the ALJ's errors in the evaluation of the medical  
2 opinion evidence, is not harmless, or "'inconsequential to the ultimate nondisability  
3 determination.'" See *Molina*, 674 F.3d at 1115 (quoting *Carmickle*, 533 F.3d at 1162).  
4 Although the ALJ's reasons for rejecting the opinions of Dr. Ruddell and Dr. Widlan were not  
5 supported by substantial evidence, the RFC as assessed by the ALJ nonetheless adequately  
6 reflects the physicians' opinion. See *Rounds v. Comm'r of Soc. Sec. Admin.*, 807 F.3d 996, 1006  
7 (9th Cir. 2015) ("[T]he ALJ is responsible for translating and incorporating clinical findings into  
8 a succinct RFC."); *Turner v. Comm'r of Soc. Sec. Admin.*, 613 F.3d 1217, 1223 (9th Cir. 2010)  
9 (the ALJ properly incorporates medical findings by assessing limitation that are "entirely  
10 consistent" with a physician's limitations). Dr. Ruddell found Plaintiff only moderately limited  
11 in work activities relating to interaction, while Dr. Widlan found Plaintiff unable to interact  
12 appropriately with the general public—these are accounted for in the ALJ's assessment that  
13 Plaintiff would have no interaction with the general public. See AR 22, 357, 374. Plaintiff also  
14 has not shown Dr. Widlan's opinion that Plaintiff would have difficulties with asking simple  
15 questions or requesting assistance is not addressed by ALJ's decision to limit Plaintiff to only  
16 incidental interaction with co-workers and supervisors. See AR 22, 374. Further, even if the  
17 RFC did not account for the rest of Dr. Widlan's opinion, the Court cannot say the ALJ's  
18 ultimate finding of nondisability was erroneous given the jobs the ALJ determined Plaintiff is  
19 able to perform do not require talking or significant interaction. Dictionary of Occupation Titles  
20 (DOT) 381.687-018, 919.687-014, 361.684-014.

## 21        **2. Plaintiff's Symptom Testimony**

22        Plaintiff contends the ALJ erred in evaluating his symptom testimony. Dkt. 10 at 4–7.

23        In his function reports, Plaintiff wrote he is unable to work because of his anxiety and

1 depression. AR 222. He stated he rarely leaves his home except for medical appointments,  
2 rarely talks to his family, and spends most of his time sitting in his room. AR 240. He wrote  
3 that he has “autistic hallucinations[,] mood swings[,]” and “anger bursts.” *Id.* He added he has  
4 poor fine motor skills, memory issues, and weakness across his legs. *Id.* During the hearing  
5 with the ALJ, Plaintiff’s mother and family friend testified on Plaintiff’s behalf. AR 45–70.  
6 They described Plaintiff as expressionless at times. AR 63. They stated Plaintiff has a hard time  
7 talking to others, which makes it difficult for him to participate in therapy. AR 54–56. They  
8 explained Plaintiff was in treatment but stopped attending because the clinic repeatedly changed  
9 his counselors. AR 56. They stated Plaintiff spends most of his time in his room by himself  
10 with no television, computer, or games, and he only leaves his room to eat or help around the  
11 house if asked, but he does not talk to anyone when he does. AR 59–61.

12 Where, as here, an ALJ determines a claimant has presented objective medical evidence  
13 establishing underlying impairments that could cause the symptoms alleged, and there is no  
14 affirmative evidence of malingering, the ALJ can only discount the claimant’s testimony as to  
15 symptom severity by providing “specific, clear, and convincing” reasons supported by  
16 substantial evidence. *Trevizo v. Berryhill*, 871 F.3d 664, 678 (9th Cir. 2017). “The standard  
17 isn’t whether our court is convinced, but instead whether the ALJ’s rationale is clear enough that  
18 it has the power to convince.” *Smartt v. Kijakazi*, 53 F.4th 489, 499 (9th Cir. 2022).

19 Here, the ALJ found Plaintiff’s statements regarding the intensity, persistence, and  
20 limiting effects of his symptoms “not fully consistent” with the evidence. AR 23. In making this  
21 assessment, the ALJ first pointed to Plaintiff’s “virtual lack of treatment.” AR 24. “[A]n  
22 ‘unexplained, or inadequately explained, failure to seek treatment’ may be the basis for an  
23 adverse credibility finding unless one of a ‘number of good reasons for not doing so’ applies.”

1 *Orn v. Astrue*, 495 F.3d 625, 638 (9th Cir. 2007) (quoting *Fair v. Bowen*, 885 F.2d 597, 603 (9th  
2 Cir. 1989)). But “a claimant’s failure to assert [a good reason], ‘or a finding by the ALJ that the  
3 proffered reason is not believable, can cast doubt’” on the claimant’s testimony. *Molina*, 674  
4 F.3d at 1113–14 (quoting *Fair*, 885 F.2d at 603). Here, the record shows Plaintiff was  
5 discharged from therapy after failing to engage with his counselor. AR 337. According to  
6 Plaintiff’s mother and family friend, Plaintiff’s reason for refusing to return to therapy was his  
7 difficulties with interacting with others and the clinic’s decision to change his counselors. AR  
8 54–56. While Plaintiff does have difficulties with participating in examinations, *see, e.g.*, AR  
9 304, 358, as the ALJ pointed out, Plaintiff’s counselors had in fact not changed while he was  
10 engaged in therapy. *See* AR 337–49. In rejecting Plaintiff’s testimony based on his lack of  
11 treatment, the Court cannot say the ALJ erred.

12 The ALJ next found that when Plaintiff did engage in treatment, his presentations  
13 undermined testimony. AR 24–29. “When objective medical evidence in the record is  
14 *inconsistent* with the claimant’s subjective testimony, the ALJ may indeed weigh it as  
15 undercutting such testimony.” *Smartt*, 53 F.4th at 498. Here, the ALJ pointed out Plaintiff was  
16 cooperative during his therapy sessions, observed as “forthright” in his answers, interactive, and  
17 had good eye contact during his evaluations. AR 329, 340, 343–44, 348, 358. The ALJ also  
18 pointed out Plaintiff’s claims of hallucinations and cognition deficits were likewise undermined  
19 by his own denial of hallucinations and examinations revealing normal thought process and no  
20 difficulty with concentration or attention. *See* AR 329, 340, 344, 348.

21 Finally, the ALJ found general inconsistencies within Plaintiff’s testimony and  
22 statements throughout the record. AR 25. An ALJ may reject a claimant’s symptom testimony  
23 when the claimant makes inconsistent statements concerning his symptoms. *See Tommasetti v.*



1 *Astrue*, 533 F.3d 1035, 1039 (9th Cir. 2008). Here, the ALJ noted that the statements provided  
2 by Plaintiff, his mother, and family friend about his everyday activity were at odds with  
3 Plaintiff's admission that he draws, plays video games for two hours daily, uses his phone and  
4 computer, uses the internet for YouTube and music sites, and reads. *Compare* AR 60 with AR  
5 328, 356.

6 "Even when the evidence is susceptible to more than one rational interpretation, [the  
7 Court] must uphold the ALJ's findings if they are supported by inferences reasonably drawn  
8 from the record." *Molina*, 674 F.3d at 1111. The inconsistencies noted by the ALJ between  
9 Plaintiff's testimony and the record regarding his symptoms, ability to interact, cognition, and  
10 activities are valid reasons to reject Plaintiff's testimony, and they are supported by substantial  
11 evidence. The Court therefore cannot say the ALJ erred in evaluating Plaintiff's testimony.

12 Plaintiff also contends the ALJ erred by only noting Plaintiff's report of anger outbursts  
13 once, but then failing to discuss it throughout the evaluation of his symptom testimony even  
14 though it is mentioned in several records. Dkt. 10 at 6–7. Plaintiff also suggests the omission of  
15 this symptom in the evaluation is consequential because the vocational expert testified that an  
16 "outburst with supervisors [] would not be tolerated at all and would result in employment  
17 termination." *Id.* at 7.

18 Plaintiff has not shown this caused harmful error. The records cited by Plaintiff show  
19 only that he himself reported anger bursts. The medical sources who evaluated him did not make  
20 any particular findings regarding this symptom and they did not appear to factor it in their  
21 opinions. The ALJ is not required to include limitations for which there is no evidence.  
22 *Osenbrock v. Apfel*, 240 F.3d 1157, 1164–65 (9th Cir. 2001). Moreover, the vocational expert  
23 did not actually state that anger outbursts with supervisors would preclude employment. The

1 record shows Plaintiff's counsel asked only about whether not responding or interacting with  
2 supervisors would be tolerated in a workplace, not about the effects of anger outbursts. *See* AR  
3 68.

4 **CONCLUSION**

5 For the foregoing reasons, the Commissioner's final decision is **AFFIRMED** and this  
6 case is **DISMISSED** with prejudice.

7 DATED this 18<sup>th</sup> day of July, 2024.

8 

9  
10 **RICARDO S. MARTINEZ**  
**UNITED STATES DISTRICT JUDGE**